

KASSON TOWNSHIP
PRIVATE ACCESS ROAD ORDINANCE
ORDINANCE NO. 2007-01
(EFFECTIVE: MAY 12, 2007)

An ordinance providing for the standards and specifications incident to the development of Private Motor Vehicle access to condominiums and lots within subdivisions, in accordance with P.A. No. 288, 1967, (as amended) and P.A. No. 26, 1945 (as amended).

The Township of KASSON therefore ordains:

1. NAME

The ordinance shall be known as "The KASSON Township Private Access Road Ordinance"

2. PROJECTS REGULATED

This Ordinance shall be applicable to all accesses – whether they be easements, ways, private drives, common areas, or otherwise – by which five (5) or more lots or residential units are bounded by common motor vehicle access, or through which common motor vehicle access passes to the nearest public road.

Reference to the word "subdivision" refers not only to projects falling within that definition under P.A. No. 288, 1967 but also includes any other group of residential units, including, without limitation, condominiums and other developments that, but for the lot size requirements of subparagraph (d) of P.A. No. 288, 1967, Section 102, would be construed as "subdivisions" within the definition of that Act.

LIMITATIONS

In as much as absolute convenience and safety are unobtainable at any cost and the Township's primary legal interests in Private Roads are:

1. To determine that road frontage requirements for lots meet zoning requirements and for assigning fiscal responsibility for maintenance and other purposes; and
2. To make as certain as possible that properties can be serviced at least from the road by fire and other emergency equipment.

The standards, which follow, are guidelines only and the Township assumes no responsibility for final Private Road designs or their implementation.

3. APPLICATION REQUIREMENTS

- A. An application for a private road permit shall be submitted on forms provided by the Township Zoning Administrator, and accompanied by any required fee as may be established from time to time by the Kasson Township Board.
- B. Three copies of the following materials shall be submitted with the application at least 45 days prior to commencement of construction. All plans shall be sealed by a registered professional engineer, licensed in the State of Michigan.
- Deed Restrictions and Road Maintenance Agreement (see Section 4)
 - Construction Plan and Profile (see Section 5)
 - Drainage (see Section 8)

4. DEED RESTRICTIONS & ROAD MAINTENANCE AGREEMENT

- A. When a private road will provide vehicular access to lots or parcels that have not yet been divided or created, proposed deed restrictions shall be provided to the zoning administrator.

When the private road will provide vehicular access only to existing lots or parcels, a proposed road maintenance agreement shall be provided to the zoning administrator.

The deed restrictions or road maintenance agreement shall be in recordable form and shall be covenants that run with the land and bind all future owners of lots or parcels.

A final private road permit shall not become effective until the zoning administrator has received completed deed restrictions or a road maintenance agreement that has been recorded with the Register of Deeds and the road have been completed.

The deed restrictions or road maintenance agreement shall include requirements:

- (1) That all decisions regarding road improvements and maintenance be approved by a majority vote of those having ownership in lands that are served by the private road.

- (2) That the owner of each parcel be responsible for payment of the costs apportioned to his or her parcel.
- (3) That the owners have the right to commence legal or equitable action against a delinquent parcel owner or parcel owners to foreclose a lien or otherwise collect the sums owed.
- (4) That the agreement be recorded in the Leelanau County Register of Deeds Office and run with the land and bind and benefit the parcels, and the owners thereof, in perpetuity.
- (5) That the owner or owners of the land served by the road be responsible to maintain the private road and drainage easement in accordance with the requirements of this Ordinance.
- (6) That a statement indicating that the owners have not requested the Leelanau County Road Commission to accept the road as a public road. As such, the road shall be private and the county road commission shall have no obligation to maintain the road in any manner. This provision, however, shall not prevent the future upgrading of the road to county road commission standards nor preclude a request in the future that the road be taken over by the county road commission.

B. Township Attorney Review. The deed restrictions or road maintenance agreement shall be reviewed and approved by the township attorney for compliance with this Ordinance. Following approval by the township attorney, the deed restrictions or road maintenance agreement shall be recorded with the Leelanau County Register of Deeds.

5. CONSTRUCTION PLAN AND PROFILE

Plan and profile drawings of the proposed private access road shall be prepared by the Applicant's Engineer or Surveyor in detail complete enough to be used as construction plans. The drawings shall show the proposed gradients of such roads and the location of drainage facilities and structures along with any other pertinent information.

The maximum grade permitted shall be eight percent (8%), although, dependent on length, and horizontal curves, grades up to twelve percent (12%) may be approved. A twelve percent (12%) grade shall not exceed three hundred (300) feet and a ten percent (10%) grade shall not exceed five hundred (500) feet in length.

Sight distance and horizontal and vertical alignment shall be based on a minimum design speed of twenty-five (25) miles per hour and shall be in accordance with the American Association of State Highway and Transportation Officials (AASHTO) "Policy of Geometric Design and Highways and Streets", under the designation of "Recreation Roads".

The maximum grade at the stopping side of an intersection shall be two percent (2%) and turn-around areas shall have a maximum grade of four percent (4%). The minimum radius for turn-around areas shall be thirty (30) feet. Vertical and horizontal curves shall be used at all changes in grade or direction.

6. CLEARING AND GRUBBING

All trees, stumps, brush and roots thereof shall be entirely removed from within the grading limits. All graded areas shall have topsoil replaced, be seeded, fertilized and mulched in accordance with Leelanau Conservation District recommendations.

7. GRADING AND STRUCTURE

The presence of other than granular material in sub-grade soil shall require undercutting and full width placement of a minimum of twelve (12) inches of granular sub-base. All peat and muck shall be removed from the sub-grade.

The level of the finished sub-grade shall be at least two and one-half (2 ½) feet above the water table. Drainage ditches shall be constructed on each side of the roadway in cut sections and in fill sections when required. Ditches shall be of sufficient depth to permit placing of future connection driveway entrance culvert, unless some form of storm sewer or raised bituminous curbing is approved by the Township. Side slopes shall be no steeper than 1:2 (one foot vertical to two feet horizontal). Where the depth of fill exceeds ten (10) feet, adequate guardrail protection shall be provided.

Bridges for roadways shall be designed to not less than HS-20 AASHTO loading.

M.D.O.T. type B-2 concrete curb and gutter will be required at an intersection with a county road if the development has a potential for a total of seventeen (17) or more dwelling units.

8. DRAINAGE

Unless waived by the Township, a drainage plan submitted on a topographic map with no larger than two (2) foot contour intervals shall be submitted, indicating the manner in which the surface drainage is to be disposed of. In no case shall runoff from a subdivision be diverted due to construction beyond the limits of that subdivision onto adjacent property unless appropriate easements are provided.

A crown of sufficient slope to insure drainage shall be provided across the width of the traveled-way for either gravel or bituminous surfaced roads. The plan shall meet the requirements of the Leelanau Conservation District and the Leelanau County Drain Commissioner's Office.

9. LENGTH, WIDTH, AND VERTICAL CLEARANCE

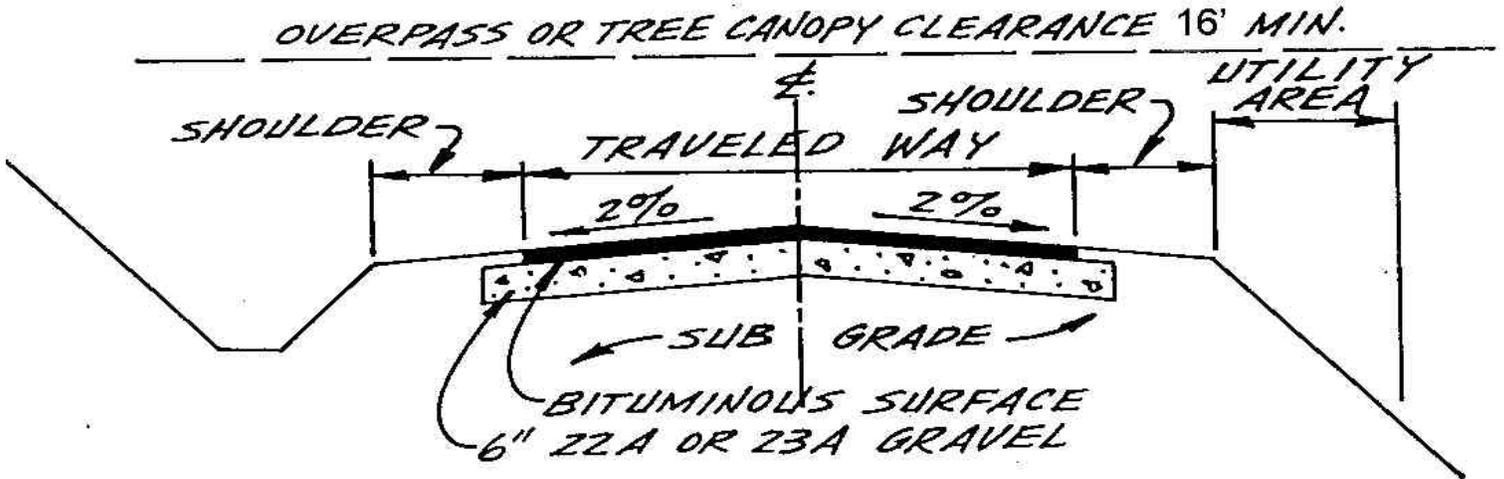
The Right-of-Way (ROW), (preserved by recorded easements), the traveled-way, shoulders, utility areas and cleared zones are to be minimally dimensioned as shown below, depending on the number of lots served.

#Lots/Residences To Be Served	Traveled Way Width	Shoulder Width (Both Sides)	Recorded ROW Easement	Type of Surface Required
1 through 4	Not Applicable	Not Applicable	Not Applicable	Not Applicable
5 through 10	18 feet	1 foot	30 feet	Gravel or better
11 through 16	20 feet	2 feet	35 feet	Sealcoat or better
17 through 49	22 feet	3 feet	40 feet	200#/SYD. BITUM.
Access to Public Road, or 50 or more lots	22 feet	3 feet	50 feet	200#/SYD. BITUM.

Note: There may be more than one classification of private road within a development.

FIGURE 1 – PRIVATE ACCESS ROAD DIMENSIONS

OVERPASS OR TREE CANOPY CLEARANCE SIXTEEN (16) FOOT MINIMUM



Maximum distance of a private access road shall be four thousand (4000) feet as measured from a public road to the end of the furthest turn-around. If the distance is greater than four thousand (4000) feet, or for subdivisions creating a total of fifty (50) or more lots, one or more additional connections to a public road or to an adjacent private road of similar specification are required. Overhead clearances under bridges or tree branches shall be maintained at sixteen (16) feet over a twelve (12) foot width in order to allow free passage of large emergency vehicles.

Note: Minimum traveled way and/or minimum cleared zones may be reduced if required in writing by another governmental agency for environmental reasons.

10. GRAVEL OR BITUMINOUS BASE COURSES

A six (6) inch aggregate finish course of 23A processed gravel (M.D.O.T. Standard Specifications) shall be placed and compacted for gravel roads. For bituminous surfaced roads, a six (6) inch aggregate base course of 22A processed road gravel shall be placed and compacted.

To prevent erosion roads with grades greater than seven percent (7%) shall be surfaced with bituminous.

The sub-base shall be compacted to ninety-five percent (95%) density prior to placement of base. The aggregate base under bituminous shall be compacted to ninety-eight percent (98%) density.

11. SHOULDERS

Shoulder material shall be of a type that when compacted will not rut or displace under traffic and shoulder design and ditch construction shall adequately drain water away from the roadway, while preventing erosion.

12. SIGNS

- A. At a minimum, a stop sign must be placed at each intersection with a county road.
- B. Where the road qualifies for a private road name under the Leelanau County policy for private road names, the applicant shall furnish and erect a private road name sign at each intersection with a county road. All such road name signs shall be in conformance with the Leelanau County Address Ordinance.
- C. Signs shall be maintained in good order by the owners of the property that is served by the private road and be specified in the private road's road maintenance agreement.

13. GUARDRAIL

Guardrail shall be required at fill sections where the embankment is greater than ten (10) feet in height and the fill slope is steeper than 1 on 3. The construction of 1 on 3 slopes is preferred over the use of guardrails and is required where practicable. Where guardrail or posts are used, shoulders shall be constructed two (2) feet wider than the standard engineering recommendations shown in Item #7 above without the guardrail.

14. SURFACING

If a bituminous surface is used on a private access road, it shall be placed on at least six (6) inches of compacted 22A aggregate (MDOT Standard Specifications). The bituminous aggregate pavement course shall be laid by an MDOT – pre-qualified contractor at a rate of at least two hundred (200) pounds per square yard (200#/SYD) of (C.A.T.C.), Leelanau County Road Commission – Special Provisions for HMA MIXTURES – COURSE AGGREGATE as adopted 9-20-2006.

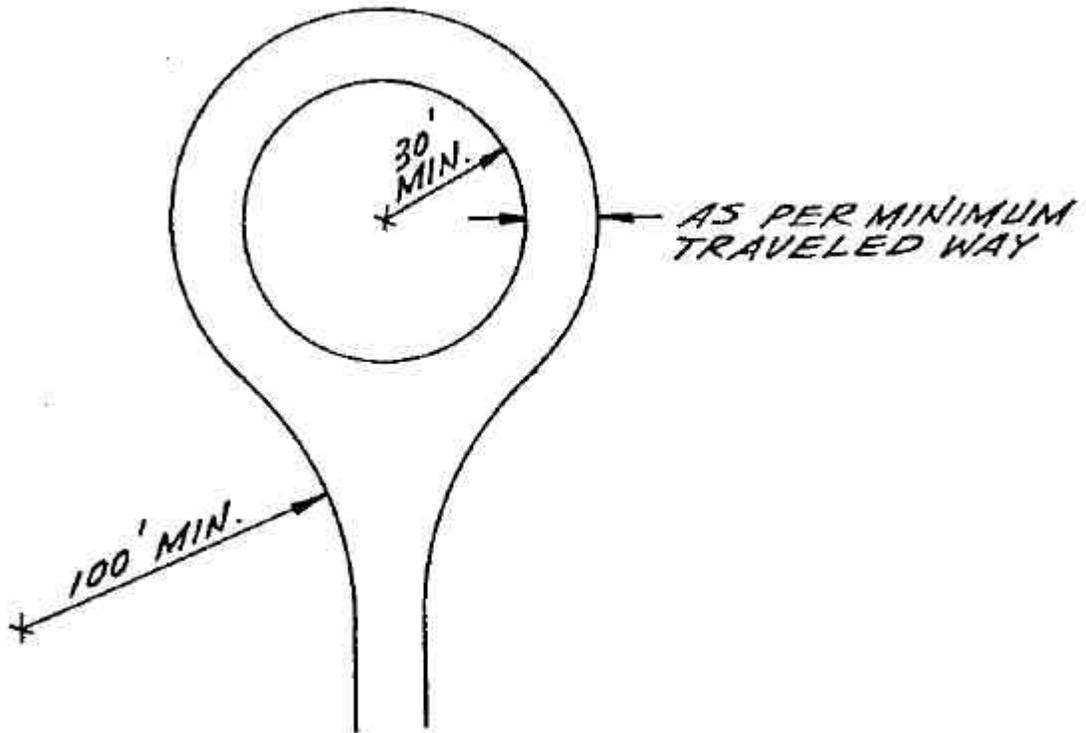
15. PRIVATE ACCESS ROAD ALIGNMENT

Private Access Roads should intersect with each other or with public roads at ninety (90) degrees or closely thereto and in no case less than seventy (70) degrees.

Where the proposed continuation of an access road at an intersection is not in good alignment with the opposing road, it must not intersect the crossroad closer than one hundred seventy five (175) feet from such opposite existing road, as measured from the centerline of said roads.

For the end of any private access road, the design must provide a turn-around for large vehicles, such as a fire truck. (SEE FIGURE 2)

FIGURE 2 – TYPICAL TURN-AROUND



Note: Other types of turn-arounds may be used if approved by the Township.

16. ACCESS TO SUBDIVISION ACROSS OTHER PROPERTY

The regulations set forth in this Ordinance are applicable to all private access roads between the subdivision and the public road, regardless of whether the fee or equitable owner of all or part of the private access road is the same person developing the subdivision.

17. TESTED MATERIALS

All materials incorporated in the work shall meet the specifications called for, or be approved by the Engineer.

18. NOTICE OF PRIVATE ACCESS

Prior to the sale of any units within the project, the developer shall record with the Leelanau County Register of Deeds Office the following notices against all lands served by the access:

- A. "Access to the lots or residential units within the following described property will not be maintained by the Leelanau County Road Commission." (Set forth a legal description of the entire subdivision property perimeter).
- B. The Township is not responsible nor shall the Township be obligated in any manner to perform regular inspections of this private road or to provide necessary repairs or maintenance.

A copy of the recorded notice shall be given to the administrator before approval of the final plat, (if applicable) or, in any event, before the conveyance of a lot (or unit) within the subdivision.

19. EXISTING NON-CONFORMING PRIVATE ACCESS ROADS

Roads existing and used as private access roads at the time this Ordinance becomes effective, and which do not meet all the design requirements specified herein, may continue to be used, "provided that" the safety features necessary for passage of emergency vehicles, such as minimum traveled way width of eighteen (18) feet and overhead clearance of sixteen (16) feet, are met prior to the issuance of land use permits to those lots or parcels to be served by the private access road. Verification of safety adequacy by the Township Fire Chief, or designee, is required in such cases before land use permits are issued.

20. PERFORMANCE AND ENFORCEMENT

Violations of the Private Road Access Ordinance are considered as Municipal Civil Infractions and enforcement actions will be taken accordingly.

21. APPLICATION REVIEW PROCEDURES

- A. The Township Zoning Administrator shall review the application and plans to determine whether they are complete. In the event the application and/or plans are incomplete, the Zoning Administrator shall inform the applicant of any deficiencies in writing. When it is determined that the application and plans are complete and in conformance with the Ordinance, the Zoning Administrator shall transmit a copy of the application and plans to a registered professional engineer designated by the Township.
- B. After reviewing all of the materials submitted, the engineer shall approve, approve with conditions, or deny the application, based on conformance with this Ordinance. If the engineer approves the materials, a preliminary private road permit shall be issued by the Zoning Administrator and one copy of the approved plans shall be signed by the Zoning Administrator and returned to the applicant. If the materials are approved with conditions, a copy of the conditions shall be affixed to the conditionally approved plans. If the application is denied, a copy of the reasons for such denial shall be given in writing to the applicant.
- C. The Zoning Administrator shall issue a final private road permit upon inspection by the Zoning Administrator and/or an engineer designated by the Township and a finding that:
- The road was constructed according to the approved plans and
 - That all conditions of approval (if any) that were imposed by the Township's designated engineer were met and
 - That all provisions of this Ordinance have been met.
- D. The applicant shall be reimbursed for any portion of the application fee not used, and conversely, will be billed for the amount of engineering review costs that exceed the application fee.
- E. Failure by the applicant to begin construction of the private road according to the approved plans on file with the Township within one year from the date of approval shall void the approval, and a new approval shall be required before construction begins.

22. VARIANCES

Upon application of a person affected by this Ordinance, the Kasson Township Planning Commission may vary the terms and conditions imposed hereby, provided:

1. The proposed variance does not result in reduced safety, durability, drainage, erosion control, or the all-weather access aspects of the project, and
2. If deemed necessary by the Kasson Township Planning Commission, the applicant deposits with the request for variance, sufficient funds estimated to cover the cost to the Township of retaining a civil engineer to review the variance request, submit opinions thereon to the Township Planning Commission and draft conditions for approval. The minimum fee shall be established by the Township Board, and the Zoning Administrator shall determine the amount of the deposit, based on the estimated cost of the review, if greater than the minimum.

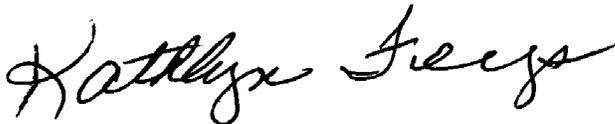
23. EFFECTIVE DATE

This Ordinance shall take effect thirty (30) days after the day of publication in a newspaper of general circulation. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

KASSON TOWNSHIP

TOWNSHIP CLERK CERTIFICATE

The undersigned, Clerk of the TOWNSHIP OF KASSON, hereby certifies that the foregoing Ordinance was adopted by the TOWNSHIP BOARD on APRIL 2, 2007; it was published in the LEELANAU ENTERPRISE on APRIL 12, 2007; and an attested copy of the same was filed with the Leelanau County Clerk's Office on MAY 2, 2007.



April 2, 2007

TOWNSHIP CLERK

DATED